

quality standard or wetlands are affected. If a wetland is affected, the application will fall under Class II as defined in §1940.312 of this subpart. If a water quality standard would be impaired or antidegradation requirement not met, a Class I assessment is required as specified in §1940.317(g) of this subpart.

(e) *General exclusions.* (1) The award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses;

(2) For actions other than those covered by exhibit M of this subpart, loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities and amendments and revisions to approved projects, including the provision of additional financial assistance that do not alter the purpose, operation, location, or design of the project as originally approved;

(3) The issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial assistance programs;

(4) Procurement activities for goods and services, routine facility operations, personnel actions, and other such management activities related to the operation of the Agency;

(5) Reduction in force or employee transfers resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar circumstances; and

*(6) The lease or disposal of real property by FmHA or its successor agency under Public Law 103-354 whenever the transaction is either not controversial for environmental reasons or will not result in a change in use of the real property within the reasonably foreseeable future.

§ 1940.311 Environmental assessments for Class I actions.

The Agency's proposals and projects that are not identified in §1940.310 of this subpart as categorical exclusions require the preparation of an environmental assessment in order to determine if the proposal will have a significant impact on the environment. For

purposes of implementing NEPA, the actions listed in this section are presumed to be major Federal actions. If an action has a potential to create a significant environmental impact, an EIS must be prepared. (In situations when there is clearly a potential for a significant impact, the EIS may be initiated directly without the preparation of an assessment.) It is recognized that many of the applications funded annually by FmHA or its successor agency under Public Law 103-354 involve small-scale projects having limited environmental impacts. However, because on occasion they have the potential to create a significant impact, each must be assessed to determine the degree of impact. The scope and level of detail of an assessment for a small-scale action, though, need only be sufficient to determine whether the potential impacts are substantial and further analysis is necessary. Therefore, for the purpose of implementing NEPA, FmHA or its successor agency under Public Law 103-354 has classified its smaller scale approval actions as Class I actions. The format which will be used for accomplishing the environmental assessment of a Class I action is provided in Form FmHA or its successor agency under Public Law 103-354 1940-21. An important aspect of this classification method is that it allows FmHA or its successor agency under Public Law 103-354's environmental review staff to concentrate most of its time and efforts on those actions having the potential for more serious or complex environmental impacts. Additional guidance on the application of NEPA to Class I actions is provided in §1940.319 of this subpart.

(a) *Housing assistance.* If either of the following actions is an expansion of a previously approved FmHA or its successor agency under Public Law 103-354 housing project, see §1940.310(b)(8) of this subpart to determine if it meets the requirements for a categorical exclusion. In the case of an expansion for which an environmental assessment was not done for the original FmHA or its successor agency under Public Law 103-354 project, the size of the proposal for assessment purposes is determined by adding the number of units in the

original project(s) to those presently being requested.

(1) Financial assistance for a multi-family housing project, including labor housing which comprises at least 5 units, but no more than 25 units; and

(2) Financial assistance for or the approval of a subdivision, as well as the expansion of an existing one which involves at least 5 lots but no more than 25 lots; and

(3) Financial assistance for a housing preservation grant.

(b) *Community and business programs and nonprofit national corporations loan and grant program.* Class I assessments will be prepared for the following categories:

(1) Financial assistance for water and waste disposal facilities and natural gas facilities that meet all of the following criteria:

(i) There will not be a substantial increase in the volume of discharge or the loading of pollutants from any existing or expanded sewage treatment facilities, or a substantial increase in an existing withdrawal from surface or ground waters. A substantial increase may be evidenced by an increase in hydraulic capacity or the need to obtain a new or amended discharge or withdrawal permit.

(ii) There will not be either a new discharge to surface or ground waters or a new withdrawal from surface or ground waters such that the design capacity of the discharge or withdrawal facility exceeds 50,000 gallons per day and provided that the potential water quality impacts are documented in a manner required for a Class II assessment and attached as an exhibit to the Class I assessment.

(iii) From the boundaries listed below, there is no extension, enlargement or construction of interceptors, collection, transmission or distribution lines beyond a one-mile limit estimated from the closest point of the boundary most applicable to the proposed service area:

(A) The boundary formed by the corporate limits of the community being served.

(B) If there are developed areas immediately contiguous to the corporate limits of a community, the boundary

formed by the limits of these developed areas.

(C) If an unincorporated area is to be served, the boundary formed by the limits of the developed areas.

(iv) The proposal is designed for predominantly residential use with other new or expanded users being small-scale commercial enterprises having limited secondary impacts.

(v) For a proposed expansion of sewage treatment or water supply facilities, such expansions would serve a population that is no more than 20 percent greater than the existing population.

(vi) The proposal is not controversial for environmental reasons, nor have relevant questions been raised regarding its environmental impact which cannot be addressed in a Class I assessment.

(2) Financial assistance for group homes, detention facilities, nursing homes, or hospitals, providing a net increase in beds of not more than 25 percent or 25 beds, whichever is greater; and

(3) Financial assistance for the construction or expansion of facilities, such as fire stations, real stores, libraries outpatient medical facilities, service industries, additions to manufacturing plants, office buildings, and wholesale industries, that:

(i) Are confined to single, small sites; and

(ii) Are not a source of substantial traffic generation; and

(iii) Do not produce either substantial amounts of liquid or solid wastes or any of the following type(s) of wastes:

(A) Gaseous, liquid, or solid waste that is hazardous toxic, radioactive, or odorous;

(B) Either a liquid waste, whether or not disposed of on-site, that cannot be accepted by a publicly owned treatment works without first receiving pretreatment, or a liquid waste discharge that is a point source subject to a Federal, or State discharge permit; or

(C) Gaseous waste or air pollutant that will be emitted either from a new source at a rate greater than one hundred tons per year or from an expanded

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source at a rate greater than twenty-five tons per year.

(4) Financial assistance for a live-stock-holding facility or feed-lot meeting the criteria of § 1940.311(c)(8) of this subpart.

(c) *Farm Programs.* In completing environmental assessments for the following Class I actions and the Class II actions listed in § 1940.312(d), special attention will be given to avoiding a duplication of effort with other Department agencies, particularly SCS. For applications in which the applicant is receiving assistance from other agencies, technical assistance from SCS, for example, FmHA or its successor agency under Public Law 103-354 will request from that agency a copy of any applicable environmental review conducted by it and will adopt that review if the requirements of § 1940.324 of this subpart are met. FmHA or its successor agency under Public Law 103-354 will work closely with the other Federal Agencies to supplement previous or ongoing reviews whenever they cannot be readily adopted.

(1) Financial assistance for the installation or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers designed to irrigate at least 80 acres, but no more than 160 acres and provided that no wetlands are affected, in which case the application will fall under Class II as defined in § 1940.312 of this subpart:

(2) Financial assistance for the development of farm ponds or lakes of more than 5 acres in size, but no more than 10 acres, provided that no wetlands are affected. If wetlands are affected, the application will fall under Class II as defined in § 1940.312 of this subpart;

(3) Financial assistance for land-clearing operations encompassing over 15 acres, but no more than 35 acres, provided that no wetlands are affected. If wetlands are affected, the application will fall under Class II as defined in § 1940.312 of this subpart;

(4) Financial assistance for the construction of energy producing facilities designed for on-farm needs such as methane digestors and fuel alcohol production facilities;

(5) Financial assistance for the conversion of more than 160 acres of pasture to agricultural production, but no more than 320 acres, provided that in a conversion to agricultural production no wetlands are affected, in which case the application will fall under Class II as defined in § 1940.312 of this subpart;

(6) Financial assistance to grazing associations;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or nonfarm enterprises utilizing no more than 10 acres, provided that no wetlands are affected. If wetlands are affected, the application will fall under Class II as defined in § 1940.312 of this subpart; and

(8) Financial assistance for a live-stock-holding facility or feedlot having a capacity of at least one-half of those listed in § 1940.312(c)(9) of this subpart. (If the facility is located near a populated area or could potentially violate a State water quality standard, it will be treated as a Class II action as required by § 1940.312(c)(10) of this subpart.)

(d) *General.* (1) Any Federal action which is defined in § 1940.310 of this subpart as a categorical exclusion, but which is controversial for environmental reasons, or which is the subject of an environmental complaint raised by a government agency, interested group, or citizen;

(2) Loan-closing and servicing activities, transfers, assumptions, subordinations, construction management activities, and amendments and revisions to all approved actions listed either in this section or equivalent in size or type to such actions and that alter the purpose, operation, location or design of the project as originally approved;

(3) The lease or disposal of real property by FmHA or its successor agency under Public Law 103-354 which meets either the following criteria:

(i) The lease or disposal may result in a change in use of the real property in the reasonably foreseeable future, and such change is equivalent in magnitude or type to either the Class I actions defined in this section or the categorical exclusions defined in § 1940.310 of this subpart; or

(ii) The lease or disposal is controversial for environmental reasons,

and the real property is equivalent in size or type to either the Class I actions defined in this section or the categorical exclusions defined in § 1940.310 of this subpart.

§ 1940.312 Environmental assessments for Class II actions.

Class II actions are basically those which exceed the thresholds established for Class I actions and, consequently, have the potential for resulting in more varied and substantial environmental impacts. A more detailed environmental assessment is, therefore, required for Class II actions in order to determine if the action requires an EIS. The format that will be used for completing this assessment is included as exhibit H of this subpart. Further guidance on Class II actions is contained in § 1940.318 of this subpart. Class II actions are presumed to be major Federal actions and are defined as follows:

(a) *Housing assistance.* If either of the following actions is an expansion of a previously approved FmHA or its successor agency under Public Law 103-354 housing project, see § 1940.310(b)(8) of this subpart to determine if it meets the requirements for a categorical exclusion, otherwise it is a Class II action.

(1) Financial assistance for a multi-family housing project, including labor housing, which comprises more than 25 units; and

(2) Financial assistance for, or the approval of, a subdivision as well as the expansion of an existing one, which involves more than 25 lots.

(b) *Community and business programs and nonprofit national corporations loan and grant program.* (1) Class II actions are those which either do not meet the criteria for a categorical exclusion as stated in § 1940.311 of this subpart, or involve a livestock-holding facility or feedlot meeting the criteria for a Class II action as defined in paragraphs (c) (9) and (10) of this section; and

(2) Non-technical assistance grant or loan guarantee under nonprofit national corporation loan and grant program.

(c) *Farm programs.* In completing environmental assessments for the following actions, FmHA or its successor

agency under Public Law 103-354 will first determine if the applicant has sought technical assistance from the Soil Conservation Service (SCS). If not, the applicant will be requested to do so. Subsequently, an approved loan will be structured so as to be consistent with any conservation plan developed with the application by SCS. However, the FmHA or its successor agency under Public Law 103-354 approving official need not include an element of the conservation plan within the loan agreement if that official determines that the element is both nonessential to the accomplishment of the plan's objectives and so costly as to prevent the borrower from being able to repay the loan. The SCS environmental review will be adopted by FmHA or its successor agency under Public Law 103-354 if the requirements of § 1940.324 of this subpart are met.

(1) Financial assistance for the installation or enlargement of irrigation facilities including storage reservoirs, diversion dams, wells, pumping plants, canals, pipelines, and sprinklers either designed to irrigate more than 160 acres or that would serve any amount of acreage and affects a wetland;

(2) Financial assistance for the development of farm ponds or lakes either larger than 10 acres in size or for any smaller size that would affect a wetland;

(3) Financial assistance for land-clearing operations either encompassing more than 35 acres or affecting a wetland, if less than 35 acres is involved;

(4) Financial assistance for the construction or enlargement of aquaculture facilities;

(5) Financial assistance for the conversion of more than 320 acres of pasture to agricultural production or for any smaller conversion of pasture to agricultural production that affects a wetland;

(6) Financial assistance to an individual farmer or an association of farmers for water control facilities such as dikes, detention reservoirs, stream channels, and ditches;

(7) Financial assistance for the use of a farm or portion of a farm for recreational purposes or nonfarm enterprises either utilizing more than 10